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ON PETITION

 KINNEY & LANGE, P.A.  
 THE KINNEY & LANGE BUILDING  
 312 SOUTH THIRD STREET  
 MINNEAPOLIS, MN 55415-1002

 In re Application of  
 TOUTOUNTZIS, VASILIOS  
 Patent No. 5,417,017  
 Application No. 08/040,305  
 Filed: March 30, 1993  
 Issued: May 23, 1995  
 Attorney Docket No. T257.312-0002

This is a decision on the letter filed September 1, 2000, which is being treated as a petition under 37 CFR 1.377 to accept and record a timely maintenance fee payment for the above-identified patent.

The petition is **GRANTED**.

The patent issued on May 23, 1995. On January 25, 1999, petitioner submitted the 3.5 year fee and surcharge. The fee transmittal form incorrectly listed the patent as 5,471,017 instead of 4,417,017. As a result, the funds were credited to the incorrect patent. The form listed the correct serial number for the patent.

The Code of Federal Regulations requires certain information to accompany payment of a maintenance fee. More specifically, 37 CFR 1.366(c) states, "In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include the following:

- (1) The patent number; and
- (2) The application number of the United States application for the patent on which the maintenance fee is being paid."

The Manual of Patent Examining Procedure, Section 2515 states, "Maintenance fee payments and any necessary surcharges must include the Patent Number and the Application Number as required by 37 CFR 1.366(c).... Since this required information will be used as a cross-check to ensure that the maintenance fee is properly credited."

Therefore, because petitioner listed both a patent number and a correct serial number, relief under 37 CFR 1.377 is proper.

PTO records will be updated, and an appropriate Notice will be published in the Official Gazette, in due course.

A petition fee of \$130 has been charged to petitioner's deposit account. When payment was made on the 4,471,017 patent, \$130 was refunded to deposit account no. 11-0982 because a surcharge was not due for patent no. 5,471,017 even though a surcharge was due for 5,417,017. Therefore, \$130 will be charged to the deposit account for the surcharge. The funds improperly credited to patent no. 4,471,017 will be transferred to the instant patent.

This file is being forwarded to Files Repository.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

 Beverly M. Flanagan  
 Supervisory Petitions Examiner  
 Office of Petitions  
 Office of the Deputy Commissioner  
 for Patent Examination Policy

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